

1936 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1936)
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



Edited by

WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR. }
R. O. MASON } Assistant Editors
J. S. O'BRIEN }

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3945-23. May revoke license.—The Commissioner of Agriculture, Dairy and Food may revoke any license issued under his authority upon proof of violation of the provisions of this act and any of such rules and regulations made in pursuance thereof. (Act Apr. 22, 1933, c. 420, §3.)

AGRICULTURAL SEEDS

3957-1. Definitions.

Definition of seed grains in Laws 1935, c. 50, §9, controls and governs as to such law and supersedes this act for purpose thereof. Op. Atty. Gen. (86a-44), Mar. 21, 1935.

County board in purchasing and selling seed grains to farmers under Seed Loan Act is not governed by this act. Op. Atty. Gen. (833f), Mar. 30, 1935.

3957-3. Labels for packages—Contents—Weed seed tolerance. * * *

(c) The approximate total percentage by weight of weed seeds of all species and the name and approximate number per pound of agricultural seeds of each of the kinds of weed seeds hereinafter specified, whenever the total number of any or all of such kinds exceeds ten per pound of agricultural seeds: Quack grass (*Agropyron repenes*), Canada Thistle (*Carduus arvensis*), Perennial Sow Thistle (*sonchus arvensis*), Dodders (*Cuscuta supp.*), Leafy Spurge (*Euphorbia esula*), Ox Eye Daisy (*Chrysanthemum leucanthemum*), and Buckhorn Plantain (*Plantago Lanceolata*); provided, that whenever such weed seeds are found in number not exceeding ten of all kinds in the aggregate per pound of agricultural seeds, the word "trace" together with the name of each and every kind of weeds seeds so

found shall appear on the label. (As amended Apr. 5, 1929, c. 137.)

The prohibition of subd. (g) applies to farmer sowing or selling his own seed. Op. Atty. Gen., Apr. 2, 1930.

SOFT DRINKS AND OTHER NON-ALCOHOLIC BEVERAGES

3965-1. Licenses required for manufactures of.

Restaurants, hotels or other places where they are mixing soft drinks, quart or more, are required to have manufacturer's licenses. Op. Atty. Gen., Aug. 7, 1931.

3965-3. Definitions.

Whether a mineral water to which several alkaline salts have been added, which may be used in connection with certain skin diseases and for hangovers and the like is a soft drink subject to licensing and registration is a question of fact. Op. Atty. Gen. (634b), June 25, 1935.

3965-4. Applications for license—Fee—Issue of license.

It is permissible for a manufacturer or distributor to have branches for distributing its products, but branch addresses should not be contained on the label in such manner as to indicate that license was issued for such addresses. Op. Atty. Gen. (634c), May 15, 1935.

3965-9. Carbonated beverages defined.—A carbonated or still beverage within the meaning of this Act, shall be a beverage made of pure cane, beet sugar, and/or refined corn sugar, with pure water, and pure flavoring materials, with or without fruit acids and harmless coloring materials, and the finished product shall contain not less than seven per centum of sugar and less than ½ of one per centum of alcohol by volume. All carbonated or still beverages not conforming to the above requirements, this Act, the Minnesota Dairy and Food Law, or the rules, regulations, definitions and standards made thereunder, shall be deemed to be adulterated. ('27, c. 42, §9; Apr. 21, 1933, c. 378.)

CHAPTER 21A

Regulation of Certain Manufactures and Sales

3973 to 3976. [Repealed].

Repealed by Laws 1929, c. 358, §12, post, §3976-12.

3976-1. Definitions.—That the term "bedding" as used in this act shall be construed to mean any mattress, upholstered spring, comforter, pad, cushion or pillow designed and made for use in sleeping or reclining purposes. The word "person" as used in this act shall be construed to impart the plural and the singular, as the case demands, and shall include, individuals, corporations, partnerships, joint-stock companies, or other business associations who are manufacturers or dealers in bedding. The word "new" as used in this act, shall mean any material or article that has not previously been used in the manufacture of bedding articles, or for any other purpose. The term "second hand" shall mean any material or article that has been previously used in the manufacture of bedding or for any other purpose. The word "shoddy" shall mean any material that has been spun into yarn, knit or woven into fabric, and subsequently cut up, torn up, broken up or ground up. (Act Apr. 24, 1929, c. 358, §1.)

The term "bedding," in view of the employment of the word "reclining" has reference to any article of furniture on which a person may sleep or recline, but it does not apply to a straight back chair and probably not to a rocking chair. Op. Atty. Gen., Apr. 2, 1930.

3976-2. May not use second-hand material in certain cases.—No person shall use in the making or remaking of any article of bedding as herein defined any material that has been used in any private or public hospital, or any material of any kind that has been used by or about any person having an infectious or contagious disease, or has formed a part of any article of bedding which has so been used. This section shall not prevent the renovating of bedding used in any private or public hospital. (Act Apr. 24, 1929, c. 358, §2.)

3976-3. Sale of bedding, etc., forbidden.—No person shall sell, offer for sale, consign for sale, or have in his possession with intent to sell, or consign for sale any bedding used in a private or public hospital or any article of bedding that has been used by or about any person having an infectious or contagious disease. (Act Apr. 24, 1929, c. 358, §3.)

3976-4. Material must be renovated.—No person shall remake or renovate any article of bedding unless all the material to be used in said remake or renovated bedding shall first be thoroughly sterilized and disinfected by the methods set out herein, or by any other approved sterilization method:

(a) Dry heat of a temperature of not less than 160 degrees centigrade temperature for not less than one hour. A thermometer for registering the temperature visible from the outside of the room shall be provided where dry heat is used.

(b) Live steam, with subsequent drying of the material over steam coils with a pressure of not less than 20 pounds of steam for 20 minutes. A gauge for registering steam pressure visible from the outside of the room shall be provided where steam under pressure is used and valved outlets shall be provided near the bottom and also the top of the room in cases where streaming steam is used.

(c) Formaldehyde and sulphur concurrently in a moist atmosphere for a period of not less than 10 hours. Formaldehyde gas shall be generated from the use of one pint of formaldehyde solution, 37% to each 1,000 cubic feet of air space, or through the use of any of the high class commercial fumigators which generate an equivalent quantity of gas. Sulphur shall be from the burning of three pounds of sulphur for each 1,000 cubic feet of air space. The moist atmosphere shall be produced by thorough sprinkling of the floor of the room with warm wa-

ter just prior to the process of disinfection. The room shall be provided with a separate air inlet and also an exhaust connection, and shall be equipped with tight dampers or closure gates which can be operated from the outside of the room. Rooms for disinfection of bedding materials shall be made gas or steam tight. Shelving for loose bedding materials shall be of lattice or other open construction.

Solid shelves of a type to prevent passage of gas through the materials shall not be permitted. (Act Apr. 24, 1929, c. 358, §4.)

3976-5. Devices must be approved.—All devices and equipment before being used as a process for sterilization and disinfection, shall be approved by the Industrial Commission of Minnesota, upon written application of the person desiring to use the same, and when so approved, a numbered permit for such use shall be issued to the applicant by the Industrial Commission of Minnesota. Such permit shall expire one year from date thereof. Such system of sterilization and disinfection shall be kept in good condition and repair. Every person to whom a permit has been issued shall keep such permit conspicuously posted under glass near such sterilization or disinfection chamber. Refusal to display such permit in accordance with this act shall be sufficient reason to revoke the same. Nothing in this act shall prevent any person engaged in the making or remaking, renovating or sale of any article herein described which requires sterilizing and disinfecting under the provisions hereof, from having such sterilizing and disinfecting performed by any person to whom a permit for such purposes has been issued, providing the number of the permit, with date of sterilization shall be printed on the tag or label attached to the article, and a copy of such kept by person doing such sterilization for reference. (Act Apr. 24, 1929, c. 358, §5.)

3976-6. Subject to inspection.—All places where bedding is made, remade, or renovated, or where materials for bedding are prepared, or establishment where said articles are offered for sale, or are in possession of any person with intent to sell, deliver, lease, or to consign them to an establishment where sterilizing and disinfecting is performed, shall be subject to inspection by duly appointed inspector for the Industrial Commission of Minnesota to ascertain whether the materials used or sold or the finished article enumerated, conform to the requirements of this act. Inspector shall have authority to open such bedding to examine the material used in filling. (Act Apr. 24, 1929, c. 358, §6.)

3976-7. Sales forbidden—Exceptions.—No person shall sell, lease, offer to sell or lease, or deliver or consign for sale or lease, or have in his possession with intent to sell, lease, deliver or consign for sale or lease, any bedding made, remade, or renovated in violation of this act; or any second-hand bedding unless since last used it has been thoroughly sterilized and disinfected by an approved method of sterilization. (Act Apr. 24, 1929, c. 358, §7.)

3976-8. Same.—No person, firm or corporation, by himself or his agents, servants or employees, shall make or sell, or offer to sell, deliver or consign for sale, or have in his or their possession with intent to sell, deliver or consign for sale any bedding made of material that has theretofore been used as a container for or in contact with any animal or vegetable matter or any material hereinbefore designated as shoddy, unless the bedding shall be labeled as such, or any material that has theretofore been used unless the same shall have been cleaned and sterilized. (Act Apr. 24, 1929, c. 358 §8.)

3976-9. Must be labeled.—No person shall make or remake, or sell, offer for sale, consign for sale, or have in his possession with intent to sell, offer for sale, or consign for sale any article of bedding as

herein defined unless the same is labeled as follows:

Upon each of such articles of bedding there shall be securely sewed upon the outside thereof a muslin or linen label not less than three by four and one-half inches in size, upon which shall be in plain print, in the English language, a description of the material used as filling of such article of bedding; and if such material or any portion thereof shall not have been previously used, the words "manufactured of new material" shall appear upon said label, together with the name and address of the maker or vendor thereof. If any of the material used in the making or remaking of such article of bedding shall have been previously used, the words "manufactured of second hand material" or "remade of second hand material" as the case may be, shall appear upon said label, together with the name and address of the maker or vendor thereof, and also a description of the material used in the filling of such article of bedding. On any article of bedding, not remade, but which has been previously used, the words "second hand materials used in filling not known" shall appear upon said label, together with the name and address of the vendor thereof. The statement required under this section shall be in form as follows:

OFFICIAL STATEMENT

Materials used in filling.....
 Made by
 Vendor
 Address

This article is made in compliance with an act of the State of Minnesota approved the.....day of.... 1929.

The statement of compliance required in the foregoing "official statement" shall not be construed to imply that it is prohibited to state also that the article of bedding is made in compliance with act or acts of other states.

The words "manufactured of new material" or "manufactured of second hand material" or any article of bedding not remade, "second hand materials used in filling not known" together with the description of the material used as filling of an article of bedding shall be in letters not less than one-eighth (1/8) of an inch in height. Statement of filling shall conform to rules regulating the manufacture and sale of bedding as approved by the Industrial Commission of Minnesota. No term of description likely to mislead shall be used on any label required by this regulation, in the description of the material used in the filling of any article of bedding. The label shall be attached to each mattress, pad or upholstered spring by sewing all four edges of label.

Any person who shall remove, deface, alter or shall cause to be removed, defaced or altered any label or tag upon any article of bedding so labeled or tagged under the provisions of this act, shall be guilty of a violation thereof. (Act Apr. 24, 1929, c. 358, §9.)

A person running a second-hand store who removes tag bought from emergency relief administration violates this section. Op. Atty. Gen. (2701), June 17, 1935.

3976-10. Feathers to be renovated.—Feathers used in making, remaking, or renovating, new or second hand bedding shall be thoroughly cured, sterilized, or disinfected. (Act Apr. 24, 1929, c. 358, §10.)

3976-11. Violation a misdemeanor.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$100.00 nor less than \$25.00 or by imprisonment for not more than 90 days, nor less than 30 days, or by both such fine and imprisonment for each offense. (Act Apr. 24, 1929, c. 358, §11.)

3976-12. Law repealed.—Chapter 490, General Laws 1913 [§§3973 to 3976], and all acts or parts

of acts inconsistent herewith hereby are repealed. (Act Apr. 24, 1929, c. 358, §12.)

3976-13. [Mason's 1934 Supp.] [Repealed.]

Repealed by Act Apr. 24, 1935, c. 268, §5, effective Sept. 1, 1935, post §§3976-35, 3976-36.

3976-14. Sale of fireworks forbidden—Exceptions.

—No person, firm, copartnership or corporation shall sell, offer for sale, or have in possession for the purpose of sale any fireworks within the limits of any town, any part of which is within fifteen miles of the corporate limits of any city of the first class, without first having obtained a license to sell fireworks from the town board of such town. (Act Apr. 23, 1929, c. 300, §1.)

Town board cannot act arbitrarily or unreasonably in granting or refusing licenses. Op. Atty. Gen., June 7, 1929.

Relates only to towns and not villages or other incorporated municipalities. Op. Atty. Gen., June 26, 1929.

3976-15. Town Board may grant licenses.—The town board of any town described in Section 1 is authorized to license any person, firm, co-partnership or corporation in such town and to impose a license fee therefor of not less than \$10.00 nor more than \$25.00, which shall be uniform in any such town during any calendar-year. (Act Apr. 23, 1929, c. 300, §2.)

3976-16. Application—Fee.—Any person, firm, copartnership or corporation desiring such license shall make application therefor the town clerk, which application shall be in writing and shall contain a description of the premises where applicant purposes to sell such fireworks. Such application shall be accompanied by the license fee which shall be returned in case the board fails to grant such license. Such license permit shall be in writing, signed by the chairman of such board and attested by the clerk, and shall be limited to the premises named in the application and publicly displayed on such premises, and shall be for a period of one year from the date thereof. A town clerk shall submit any such application to the town board within ten days after he receives it. (Act Apr. 23, 1929, c. 300, §3.)

3976-17. Violation is a misdemeanor.—Any person, firm, co-partnership or corporation violating any of the provisions of this act shall be guilty of a misdemeanor. (Act Apr. 23, 1929, c. 300, §4.)

3976-21. Prison made goods to be subject to laws of state.—That all goods, wares and merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, (except convicts or prisoners on parole or probation,) or in any penal and/or reformatory institutions transported into the State of Minnesota, and remaining therein for use, consumption, sale, or storage, shall upon arrival and delivery in the State of Minnesota, be subject to the operation and effect of the laws of the State of Minnesota, to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in the State of Minnesota, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise. (Act Apr. 24, 1935, c. 267, §1.)

3976-22. Effective September 1, 1935.—This act shall take effect and be in force from and after September 1, 1935. (Act Apr. 24, 1935, c. 267, §2.)

3976-31. Prison made goods must be marked.—That all goods, wares and merchandise manufactured, produced, or mined, wholly or in part, by convicts or

prisoners, (except convicts or prisoners on parole or probation), or in any penal and/or reformatory institutions in this or any other state shall be branded, labeled or marked as hereinafter provided before being exposed for sale, and shall not be so exposed or sold without such brand, label or mark thereon. (Act Apr. 24, 1935, c. 268, §1.)

3976-32. Must contain the words "Prison made."—The brand, label or mark required by Section 1 hereof shall contain at the head or top thereof the words "Prison Made" followed by the year and name of the penal and/or reformatory institution in which it was manufactured, produced, or mined in plain English lettering of the style known as great primer roman capitals. Such brand or mark, if the article will permit, shall be placed upon it and when such branding or marking is impossible, a label shall be used and attached. Such brand, mark or label shall be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public and also shall be placed outside of its box, crate or covering. (Act Apr. 24, 1935, c. 268, §2.)

3976-33. Sale of unmarked goods forbidden.—That no person shall sell, offer for sale, or have in possession for the purpose of sale, goods, wares or merchandise described in Section 1 of this Act without the brand, label or mark required by this Act being placed thereon or attached thereto, or remove, conceal or deface such brand, label or mark. (Act Apr. 24, 1935, c. 268, §3.)

3976-34. Violation a misdemeanor.—Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor. (Act Apr. 24, 1935, c. 268, §4.)

3976-35. Law repealed.—Chapter 138 of the Laws of Minnesota for 1929 is hereby repealed. (Act Apr. 24, 1935, c. 268, §5.)

3976-36. Effective September 1, 1935.—This Act shall take effect and be in force from and after September 1, 1935. (Act Apr. 24, 1935, c. 268, §6.)

3977-3980. [Repealed, except as to pending proceedings.]

For purposes of limitation cause of action based on violation of §§3977 to 4000 accrued when the sale was made. *Burzinski v. K.*, 192M335, 256NW233. See Dun. Dig. 1125a, 5605.

Where mortgage note in which participation certificate was issued was secured by a real estate mortgage and was not for more than 70% of the fair value of property mortgaged, act did not apply. *Id.* See Dun. Dig. 1125a.

Annotations to §3980.
Where a purchaser of stock from corporation which has not complied with the Blue Sky Law may recover the money paid, he cannot defend a suit brought by the receiver of the corporation to enforce the stockholders' liability, and it is immaterial that a certificate of stock has not been issued to him. 181M327, 232NW523. See Dun. Dig. 2061.

3982 to 3996. [Repealed, except as to pending proceedings.]

Annotations to §3985.
Where license is to sell stock for cash a note given for the price is invalid. *Simerman v. K.*, 179M246, 228NW757.

Annotations to §3991.
2 (9).
A co-operative association which is authorized by its articles to sell stock to "any co-operative" is not exempt from provisions of securities' act relating to registration of stock. Op. Atty. Gen., Dec. 8, 1933.

Annotations to §3994.
Where license is to sell stock for cash a note given for the price is invalid. *Simerman v. K.*, 179M246, 228NW 757.